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Steven I. Weisburd, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas
41st Floor
New York NY 10036-2714

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of :
Shinichi Morimoto :
Application No. 09/963,261 : DECISION ON
Filed: September 26, 2001 : PETITION
Atty Docket No. P/1929-85 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF
ABANDONMENT BASED ON FAILURE TO PAY THE ISSUE FEE filed May 12,
2008.

The above-identified application became abandoned effective
January 3, 2008 for failure to pay the Issue Fee and Publication
Fee within three months of the mailing date, October 2, 2007, of
the Notice of Allowance and Fee(s) Due. This Office action set
a three-month nonextendable statutory period for reply. A
courtesy Notice of Abandonment was mailed on February 29, 2008.

In response, applicants filed the instant petition to withdraw
the holding of abandonment based on failure to receive the
Notice of Allowance mailed October 2, 2007. The practitioner
states that the Office action was never received at the
correspondence address of record. The practitioner states that
he has searched the file jacket and referenced the docket
records and provides a copy of the docket records where the due
date for this Notice would have been entered had it been
received. In support thereof, applicants submit declarations of
fact of attorney Ian Blum and docketing specialist Henrietta
Marron.

A review of the application file reveals no irregularities in the mailing of the Notice mailed October 2, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view thereof, the Notice of Abandonment mailed February 29, 2008 and holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The petition included payment of the Issue Fee and Publication Fee¹. The Office of Data Management has been advised of this

¹ There was no distinct but concurrent requirement for corrected drawings.

decision. The application file is, thereby, forwarded for the technical support staff to withdraw the holding of abandonment and for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is stylized with large, flowing loops and a prominent initial "N".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions